

AUSTRALIAN TAX REVIEW

Volume 37, Number 3

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Climate ripe for tax change	129
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ARTICLES

Chasing tax fraudsters using the tort of conspiracy – Peter Edmundson

This article analyses whether taxing authorities may pursue participants in tax fraud using the tort of conspiracy, with a focus on the position in Australia. A discussion of a recent successful claim in the United Kingdom is used to highlight the two main issues that arise. The first is whether or not a claim in conspiracy is legitimately available to a taxing authority and the second is whether the requirement of “unlawful means” is sufficiently broad to allow the tort to be used to combat tax fraud. These two matters are discussed in the Australian context in order to determine whether such a claim could be brought in Australia.	131
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RAP(ping) in taxation: A review of New Zealand’s Rewrite Advisory Panel and its potential for adaptation to other jurisdictions – Dr Adrian Sawyer

This article provides an in-depth narrative of the role the Rewrite Advisory Panel (RAP) has played in New Zealand’s Rewrite Project, both from an outsider’s perspective (the author) and from a major contributor and current Chair, the Rt Hon Sir Ivor Richardson. An important theme that emerges is the necessity for paying close attention to detail. Such detail may be overlooked in a drafting process that focuses on (re)writing in plain English according to a format promulgated by the New Zealand government in 1993. One important observation is that, without the influence of the RAP, the quality and accuracy of the Rewrite Program (including the <i>Income Tax Act 2007</i> (NZ)) would be much the poorer, with flow-on effects increasing compliance costs, creating uncertainty and invoking more judicial involvement. The importance of “rap(ping) in tax” in New Zealand therefore should not be underestimated.	148
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\$250 deduction denial for expenses of self-education: Retention of section 82A is a mystery – Dale Boccabella

Section 82A of the <i>Income Tax Assessment Act 1936</i> (Cth) denies deductions for up to \$250 of expenses of self-education that otherwise satisfy deductibility under the general deduction section. Section 82A was introduced at the same time that \$250 dollars of expenses of self-education began to qualify as a concessional rebatable amount under s 159U. One unambiguous role of s 82A was to prevent double counting of the one cost, namely, a deduction, and a rebatable amount. The concessional rebate for expenses of self-education was repealed from 1 July 1985. However, s 82A was not repealed at the same time, even though the policy basis for its existence disappeared. The article broadly sets out the scope of operation and history of s 82A. The article then unsuccessfully searches for a credible new policy basis for s 82A. It then concludes that s 82A is inequitable, and it creates unjustifiable compliance and administrative costs. Accordingly, the existence of s 82A cannot be justified. The section should have been repealed with effect from 1 July 1985.	164
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